

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

John Kelley, et al.

Plaintiffs,

v.

Alex M. Azar II, et al.,

Defendants.

Case No. 4:20-cv-00283-O

NOTICE OF SUPPLEMENTAL AUTHORITY

The plaintiffs respectfully submit this notice of supplemental authority to alert the Court of the Fifth Circuit's recent decision in *DeOtte v. Nevada*, No. 19-10754. The panel vacated the classwide injunction that the district court had entered in *DeOtte v. Azar*, 393 F. Supp. 3d 490 (N.D. Tex. 2019), ruling that the case had become moot. The mandate has not yet issued, so the district court's injunction and judgment remain in effect for now. And Mr. DeOtte intends to petition for rehearing en banc, so the court of appeals' mandate is unlikely to issue until the court disposes of the forthcoming en banc petition.

If the panel opinion stands, it will reopen the challenges that the religious-objector plaintiffs are asserting against the Contraceptive Mandate, challenges that this Court dismissed on res judicata grounds in its order of February 25, 2021 (ECF No. 35). We have attached a copy of the *DeOtte* opinion to this notice.

Respectfully submitted.

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CERTIFICATE OF SERVICE

I certify that on December 22, 2021, I served this document through CM/ECF upon:

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